

*The purpose of this document is to provide the public with a concise and accessible explanation and rationale of the proposed revisions to 1820-0624: IDEA Part B State Performance Plan (Part B SPP) and Annual Performance Report (Part B APR) and is divided in two sections. The first section, “Background,” lays out the legal requirements, i.e., elements of the SPP/APR that are required by statute and may not be changed, and describes prior significant milestones and SPP/APR revisions. The second section, “Proposed Revisions to the Part B SPP/APR,” describes the proposed revisions, which would go into effect with States’ FFY 2016 SPP/APR to be submitted in February 2018.*

## **1. BACKGROUND**

### **1.a Legal Requirements**

**SPP/APR:** Section 616(b)(1)(A) of the Individuals with Disabilities Education Act (IDEA or Act) requires that, not later than one year after the date of enactment of IDEA Improvement Act of 2004, each State have in place an IDEA Part B SPP that evaluates the State’s efforts to implement the requirements and purposes of IDEA Part B and describes how the State will improve such implementation. IDEA section 616(b)(1)(C) requires each State to review its SPP at least once every six years. Consistent with IDEA section 616(b)(2)(C)(ii), each State must report annually to the public on the performance of each local educational agency located in the State on the targets in the State’s performance plan and to the Secretary on the State’s performance under the SPP, i.e., an APR.

**Indicators:** As required by section 616(a)(3) of the Act,<sup>1</sup> the SPP is comprised of quantifiable indicators, and qualitative indicators as needed, in the following areas –

- The provision of a free appropriate public education (FAPE) in the least restrictive environment (LRE)
- State exercise of its general supervisory authority including –
  - o Child find
  - o Effective monitoring
  - o The use of resolution sessions and mediation; and
  - o A system of transition services as defined in IDEA sections 602(34) and 637(a)(9)
- Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification

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<sup>1</sup> See also: IDEA sections 612(a)(15), 612(a)(16), 612(a)(22), and 616(a)(4).

The SPP also includes indicators that are not specifically required by section IDEA 616(a)(3), such as the indicators related to suspension and expulsion and parent involvement, that address areas critical to ensuring improved educational results and functional outcomes for students with disabilities. See IDEA section 616(a)(4).

Targets: The State must establish measurable and rigorous targets for each indicator. See IDEA section 616(b)(2).

Improvement: Pursuant to IDEA section 616(b)(1)(A), the SPP must include a description of how the State will improve its implementation of IDEA.

Information Regarding Slippage Where the Targets Are Not Met:

Section 80.40(b)(2) of the Education Department General Administrative Regulations, or EDGAR, required that the States' APRs include brief information on the reasons for slippage if the established objectives, *i.e.*, targets, were not met. This section of EDGAR was replaced by the Uniform Guidance provision in 2 CFR §200.328(b)(2)(ii), which requires that, unless other collections are approved by OMB, the States' APRs include brief information on the reasons why the State did not meet its established goals, *i.e.*, targets, if appropriate. The Department proposes to maintain the requirement in the current instructions, approved by OMB in 2012, that States must include an explanation of slippage in indicators where the State did not meet its target.

1.b Prior Significant Milestones or Revisions

The IDEA Part B SPP/APR package (Office of Management and Budget (OMB) number (04736) 1820-0624) was originally approved by OMB in 2005. The original IDEA Part B SPP/APR package contained 20 indicators covering the areas required by the Act and other key areas. Some indicators corresponded to the statutory language in IDEA section 616(a)(3), *e.g.*, Indicators 9 and 10 regarding the disproportionate representation of racial and ethnic groups in special education and related services to the extent that representation is due to inappropriate identification, while others were developed to respond to general priority areas, *e.g.*, Indicator 5, the percentage of children with disabilities served in different settings, developed to address the provision of FAPE in the LRE.

In December 2005, each State submitted its SPP, including targets through FFY 2010. In 2011, to meet the requirement set forth in IDEA section 616(b)(1)(C) that the State review its SPP at least once every six years, and in the absence of IDEA reauthorization, OSEP proposed to make no major changes to the SPP and to maintain the indicators as written. Therefore, with its 2011 SPP submission, each State extended its targets and improvement activities through FFY 2012.

In 2012, OSEP eliminated two indicators where OSEP determined that the information submitted was duplicative of data submitted by States through another OMB-approved information collection (EDFacts), thereby reducing reporting burden. Additionally, these indicators were not required by the statute, and, because the data are available to OSEP through the other data

collections, OSEP could continue to use the data to evaluate a State’s performance as part of OSEP’s determination process. As a result, States were no longer required to report on Indicators 16 (State Complaint Timelines) and 17 (Due Process Hearing Timelines).

Also in 2012, OSEP requested and was granted permission by OMB to make several significant technical amendments to the approved SPP/APR package, which reduced reporting burden. Beginning with the FFY 2011 SPP and APR (submitted in February 2013), States –

- Were not required to report on progress and must only report on slippage for a particular indicator if the State does not meet its target for that indicator.
- Could have one set of improvement activities that covered all indicators instead of reporting improvement activities under each indicator.
- Were required to only report on improvement activities for indicators where it did not meet its target
- Were not required to provide data for Indicator 20 with its initial submission.

Beginning in 2012, OSEP reconceptualized its accountability system. That system, *Results Driven Accountability* (RDA), is aligned to best support States in improving results for students with disabilities. Previously, OSEP’s accountability system, including the SPP/APR, was heavily focused on compliance with statutory and regulatory requirements, with limited focus on how the requirements impacted results for students with disabilities. RDA balances the focus on improved educational results and functional outcomes for students with disabilities, while considering compliance as it relates to those results and outcomes. The SPP/APR is a critical component of RDA.

Revisions in 2014 to the SPP/APR information collection for FFY 2013 through FFY 2018 were based on the following principles

- Alignment with the RDA vision and its goals
- Reduction of reporting burden by requiring only what is necessary in the statute and regulations or vital to ensuring improved educational results and functional outcomes
- Retaining consistent data sources and measurements as much as possible

The following revisions to the SPP/APR information collection, which were approved in 2012 and 2014, were incorporated into the FFY 2013-FFY 2018 SPP/APR:

1. Combine the SPP and APR into one document.
2. Collect SPP/APR through an online submission system (GRADS 360) that includes the capability to respond to the SPP/APR electronically.
3. Report on slippage only if the State does not meet its target for the reporting year.
4. Develop streamlined and coordinated systems descriptions.

5. States are no longer required to report on Improvement Activities for each indicator; rather States must submit a comprehensive State Systemic Improvement Plan (SSIP) (through Indicator 17). The SSIP is a comprehensive, ambitious yet achievable plan for improving results for students with disabilities. The SSIP is a multi-year plan that the State develops in two phases. The basis for this plan is a detailed data and infrastructure analysis that will guide the development of strategies to increase the State’s capacity to structure and lead meaningful change in local educational agencies (LEAs). In order to improve results, States must assess the capacity of their current infrastructure systems and their ability to enhance this infrastructure to increase the capacity of LEAs to implement, scale up, and sustain evidence-based practices that will result in improved outcomes for children with disabilities. The data and infrastructure analysis should use multiple data sources, including SPP/APR indicators and IDEA section 618 State-reported data, to identify systemic approaches that will lead to improved results for students with disabilities across key measures: performance on assessment, graduation with a regular diploma, and post-school outcomes. While the primary focus of the SSIP is on improvement of student outcomes, the State must also address in its SSIP how the State will use information from its general supervision systems to identify areas that need improvement.
6. Eliminated Indicators 15 and 20. Prior Indicator 15 required a State to report on the effectiveness of its general supervision systems by reporting on the percent of findings of noncompliance identified in the prior fiscal year and corrected as soon as possible but in no case later than one year from identification in the reporting fiscal year for the APR. The requirement to report under each compliance indicator on the correction of State-identified noncompliance remains.  
  
Prior Indicator 20 required a State to provide data on the timeliness and accuracy of its data reported to the Department under IDEA sections 616 and 618. Instead, OSEP now calculates each State’s compliance with the requirement to submit timely and accurate IDEA section 618 data and SPP/APR data.

## **2. PROPOSED REVISIONS TO THE PART B SPP/APR**

Indicator 1 (Graduation): The measurement is revised to allow States the flexibility of reporting data for children with disabilities using either the four-year adjusted cohort graduation rate required under the ESEA or an extended-year adjusted cohort graduation rate under the ESEA, if the State has established one.

Indicator 2 (Drop Out): The measurement table has permitted States to choose between two different options in reporting drop-out data under Indicator 2. The measurement and instructions are revised to require all States to use a single measurement for this indicator – the same

measurement that the Department uses in considering drop-out data as part of the annual determinations under section 616 of the IDEA.

Indicator 3A (Statewide Assessments – AYP/AMO): Indicator 3A has measured the percent of the districts with a disability subgroup that meets the State’s minimum n size that meet the State’s Adequate Yearly Progress (AYP)/Annual Measurable Objective (AMO) targets for the disability subgroup. This indicator is eliminated, because the ESEA, as amended, no longer requires States to report on AYP or AMOs. The Department’s guidance, “Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions” specifies that the requirement to report on AYP/AMO is no longer in effect during FFY 2016 and beyond.

Indicator 3C (Statewide Assessments – Proficiency Rate): Indicator 3C previously included reporting students’ performance on alternate assessments based on modified academic achievement standards. Regulations that took effect in September 2015 discontinued the use of alternate assessments based on modified academic achievement standards for eligible students with disabilities. As such, this reporting requirement was removed from the measurement.

Indicator 4A (Significant Discrepancy in the Rate of Suspensions and Expulsions): Under this indicator, States have been permitted, but are not required, to establish a minimum n size. If the State established a minimum n size, the State had to include in the numerator of the calculation for this indicator only districts that meet the State’s minimum n size, but the State had the option to include in the denominator either: (1) districts that meet the State’s minimum n size; or (2) all districts in the State. The measurement and instructions are revised to require States that choose to use a minimum n size for this indicator to include only districts that meet the State’s minimum n size in both the numerator and the denominator. This provides a more accurate reflection of the percentage of districts with a significant discrepancy in the rate of suspensions and expulsion.

Indicator 4B (Significant Discrepancy, by Race or Ethnicity, in Rate of Suspensions and Expulsions/Policies and Procedures): Under this indicator, States have been permitted, but are not required, to establish a minimum n size for one or more racial/ethnic group(s). If the State established a minimum n size, the State had to include in the numerator of the calculation for this indicator only districts that meet the State’s minimum n size for one or more racial/ethnic group(s), but the State had the option to include in the denominator either: (1) districts that meet the State’s minimum n size for one or more racial/ethnic group(s); or (2) all districts in the State. The measurement and instructions are revised to require States that choose to use a minimum n size for this indicator to include only districts that meet the State’s minimum n size for one or more racial/ethnic group(s) in both the numerator and the denominator. This provides a more accurate reflection of the percentage of districts with a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions, which have policies, procedures, or practices in the specified areas that contribute to that discrepancy.

Indicator 7 (Preschool Outcomes): The instructions are revised to explicitly require that only children who received special education and related services for at least six months during the age span of three through five years be included in the measurement. As noted in the 2007

FAQs titled “Frequently Asked Questions regarding the SPP/APR: Early Childhood Outcomes (Part C Indicator #3 and Part B Indicator #7),” to be part of this data collection children must have received special education and related services for at least six months during the age span of three through five years. The purpose of this revision is to reflect the guidance that the Department has previously provided.

Indicator 9 (Disproportionate Representation): Under this indicator, States have been required to provide their definitions of “disproportionate representation.” The measurement is revised to require States to specify in their definitions: (1) the calculation method(s) being used (*i.e.*, risk ratio, weighted risk ratio, e-formula, etc.); 2) the threshold at which disproportionate representation is identified; and, as appropriate; (3) the number of years of data used in the calculation; and (4) any minimum cell and/ or n-sizes (*i.e.*, risk numerator and/or risk denominator). The use of the term “minimum cell size” to refer to the minimum number of children that must be included in the numerator and “minimum n-size” to refer to the minimum number of children that must be included in the denominator when calculating risk is consistent with the terminology used in the final significant disproportionality regulations, which were published in the Federal Register (81 FR 92376) on December 19, 2016 and became effective on January 18, 2017. (See 34 CFR §300.647(a)(3) and (4).) This revision will enable the Department and the public to have a more complete understanding of how States define “disproportionate representation.”

In addition, States have been permitted, but are not required, to establish a minimum n and/or cell size for one or more racial/ethnic group(s). If the State established a minimum n and/or cell size, the State had to include in the numerator of the calculation for this indicator only districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s), but the State had the option to include in the denominator either: (1) districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s); or (2) all districts in the State. The measurement and instructions are revised to require States that choose to use a minimum n and/or cell size for this indicator to include only districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s) in both the numerator and the denominator. This provides a more accurate reflection of the percentage of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

Indicator 10 (Disproportionate Representation in Specific Disability Categories): Under this indicator, States have been required to provide their definitions of “disproportionate representation.” The measurement is revised to require States to specify in their definitions: (1) the calculation method(s) being used (*i.e.*, risk ratio, weighted risk ratio, e-formula, etc.); 2) the threshold at which disproportionate representation is identified; and, as appropriate; (3) the number of years of data used in the calculation; and (4) any minimum cell and/ or n-sizes (*i.e.*, risk numerator and/or risk denominator). The use of the terms “minimum cell size” to refer to the minimum number of children that must be included in the numerator and “minimum n-size”

to refer to the minimum number of children that must be included in the denominator when calculating risk is consistent with the terminology used in the final significant disproportionality regulations, which were published in the Federal Register (81 FR 92376) on December 19, 2016 and became effective on January 18, 2017. (See 34 CFR §300.647(a)(3) and (4).) This revision will enable the Department and the public to have a more complete understanding of how States define “disproportionate representation.”

In addition, States have been permitted, but are not required, to establish a minimum n and/or cell size for one or more racial/ethnic group(s). If the State established a minimum n and/or cell size, that State had to include in the numerator of the calculation for this indicator only districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s), but the State had the option to include in the denominator either: (1) districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s); or (2) all districts in the State. The measurement and instructions are revised to require States that choose to use a minimum n and/or cell size for this indicator to include only districts that meet the State’s minimum n and/or cell size for one or more racial/ethnic group(s) in both the numerator and the denominator. This provides a more accurate reflection of the percentage of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

Indicator 12 (Part C to Part B Transition at Age Three): The measurement is revised to add a category for the number of children whose parents chose to continue early intervention services beyond the child’s third birthday through a State’s policy under 34 CFR §303.211 or a similar State option, which would then be subtracted from the denominator. Children who continue to receive early intervention services beyond their third birthdays through a State’s policy under 34 CFR §303.211 or a similar State option are not required to have an IEP developed and implemented by their third birthdays. Subtracting this category from the denominator would ensure that the measurement more accurately represents the percent of children referred by Part C prior to age 3 and who are found eligible for Part B, who are required to have an IEP developed and implemented by their third birthdays.

Indicator 13 (Secondary Transition): The measurement is revised to clarify that if a State’s policies and procedures provide that public agencies must meet the requirements for secondary transition at an age younger than 16, the State may, but is not required to, choose to include youth beginning at that younger age in its data for this indicator. If a State chose to do this, it would be required to state this clearly in its SPP/APR, and ensure that its baseline data were based on youth beginning at that younger age. This is added so that States choosing to hold themselves accountable for meeting the secondary transition requirement for children younger than age 16 are permitted to reflect the data in the measurement and report in alignment with the State’s policies and procedures.

Indicators 4B (Significant Discrepancy, by Race or Ethnicity, in Rate of Suspensions and Expulsions/Policies and Procedures), 9 (Disproportionate Representation in Special Education

and Related Services), 10 (Disproportionate Representation in Specific Disability Categories), 11 (Timely Initial Evaluations), 12 (Part C to Part B Transition at Age Three), and 13 (Secondary Transition): The instructions are revised to include the following: “If the State’s data for this indicator for the previous reporting period (*e.g.*, for the FFY 2016 SPP/APR, the data for FFY 2015) reflected less than 100% compliance [(greater than 0% actual target data for Indicators 4B, 9 and 10)], and the State did not identify any findings of noncompliance during the previous reporting period, explain why the State did not identify any findings of noncompliance during the previous reporting period.” This is added so that the Department can determine why a State had not identified findings of noncompliance, although the State’s data for the indicator reflected that there was noncompliance. In responding to previous SPP/APRs, the Department has directed States to provide this information to ensure that States are meeting their general supervisory and monitoring responsibilities. This is now being added to the Measurement Table as a requirement.

Indicators 8 (Parent Involvement) and 14 (Post-School Outcomes): The Measurement Table has required States to report on the extent to which the response data (*i.e.*, data regarding the demographics of the respondents) for these indicators are representative of the demographics of the State. As part of its response to a State’s SPP/APR, where the State has not addressed representativeness or has reported that the response data were not representative, the Department has required the State to report, as part of the next year’s SPP/APR, whether the following year’s data are from a response group representative of the population, and, if not, the actions the State is taking to address this issue. The instructions are revised to suggest that States consider providing more detailed information about the State’s effectiveness in collecting data that are representative of the demographics of children who receive special education services (Indicator 8) or youth who are no longer in secondary school and had IEPs in effect at the time they left school (Indicator 14). In addition, the Department proposes requiring States that have not addressed representativeness or have reported that the response data were not representative to include strategies for improving the representativeness of the data in the current year’s SPP/APR, rather than next year’s SPP/APR, to increase the timeliness of the State’s development and implementation of such strategies.

Indicator 17 (State Systemic Improvement Plan): The instructions for this results indicator are revised under the section titled “Specific Content of Each Phase of the SSIP” to further clarify the content that States must report during their Phase III submissions, which are in effect until the end of this Part B SPP/APR period (*i.e.*, FFY 2018 submission due February 2020).